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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,984	03/18/2004	Marcia R. Meyer	026.0006	8929

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EXAMINER

FERNSTROM, KURT

ART UNIT

PAPER NUMBER

3711

NOTIFICATION DATE

DELIVERY MODE

11/14/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ifllaw.com

Office Action Summary

Application No.

10/804,984

Applicant(s)

MEYER ET AL.

Examiner

Kurt Fernstrom

Art Unit

3711

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12, 27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Aafedt. Aafedt discloses in Figures 1 and 2 and in the specification a device comprising two pluralities of design samples, where each of the pluralities of design samples is attached via a binding mechanism such that the samples can be rotated about the binding mechanism around a common axis. The numbers displayed by Aafedt are designs in the broad sense of the term, the elements in each plurality each comprises a color and a material, and the samples in each of the stacks are the same, and movable such that any of the design components can be selectively displayed and viewed together. With respect to claim 4, the numerical designs are broadly considered to be patterns. With respect to claim 12, Aafedt discloses a ring binding.

Claims 1-3, 7, 8, 10, 27, 29 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Raiche. Raiche discloses in Figure 1 and in the specification a device comprising at least four pluralities of design samples 12, 14, 16 and 18, where each of the pluralities of design samples is attached via a binding mechanism 24 such that the samples can be rotated about the binding mechanism around a common axis. The numbers displayed by Raiche are designs in the broad sense of the term, the elements in each plurality each comprises a color and a material, and the samples on each of the wheels are the same, and movable such that any of the design components can be selectively displayed and viewed together. With respect to claims 4, 7, 10 and 28, the numerical designs are broadly considered to be patterns.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 7, 8, 10, 27, 29 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aafedt in view of Summers. Raiche discloses all of the claimed limitations with the exception of the third and fourth pluralities of design components. However, it is known to provide a scorekeeping device with the numbers separated into a single digit on each display such that four pluralities of design components are provided, as disclosed for example by Summers. It would have been

obvious to one of ordinary skill in the relevant art to modify the teachings of Aafedt by providing four pluralities of design components for the purpose of allowing a user to change a single digit at a time. With respect to claims 7, 10, and 28, the numerical designs are broadly considered to be patterns. With respect to claim 32, Summers discloses a stack 20 which can be considered a fourth plurality of design samples where the samples are different from the other pluralities of samples.

Claims 6, 9 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raiche in view of Danino. Raiche discloses all of the claimed limitations with the exception of the different sequencing of the design components. However, it is known to provide a number wheel device with the numbers presented in different sequences, as disclosed for example by Danino. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Raiche by providing design components in different sequences for the purpose of varying how the components are presented.

Allowable Subject Matter

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-26 are allowed.

Response to Arguments

The newly added amendments to the claims do not overcome the prior art. Terms including "color samples" and "material samples" are very broad, and do not recite structure other than elements which each comprise a color or material. Affedt et al read on this limitation. While of course the purposes of the devices are very different, and Affedt et al do not disclose that each component within a plurality comprises a **different** color or sample, this feature is not recited in the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kurt Fernstrom/
Primary Examiner, Art Unit 3711

November 7, 2008

Application Number**Application/Control No.**

10/804,984

Examiner

Kurt Fernstrom

**Applicant(s)/Patent under
Reexamination**

MEYER ET AL.

Art Unit

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